

**PATSY WHITE,**

V.

**US AIRWAYS, INC.,**

Defendant.

This matter having come before the Court by stipulation of Plaintiff Patsy White and Defendant US Airways, Inc. for the entry of a protective order pursuant to Federal Rule of Civil Procedure 26(c), limiting the review, copying, dissemination, and filing of confidential and/or proprietary documents and information to be produced by either party and their respective counsel or by any non-party in the course of discovery in this matter to the extent set forth below; and the parties, by, between, and among their respective counsel, having stipulated and agreed to the terms set forth herein, and good cause having been shown;

It is hereby ORDERED that:

1. All documents produced in the course of discovery, all Answers to Interrogatories, all Answers to Requests for Admission, all Responses to Requests for Production of Documents, and all deposition testimony and deposition exhibits shall be subject to this Order concerning confidential information, as set forth below:

a. The designation of confidential information shall be made by placing or affixing on the document, in a manner which will not interfere with its legibility, the

word "CONFIDENTIAL." One who provides material may designate it as "CONFIDENTIAL" only when such person in good faith believes it contains sensitive personal information, trade secrets or other confidential research, development, or commercial information which is in fact confidential. A party shall not routinely designate material as "CONFIDENTIAL," or make such a designation without reasonable inquiry to determine whether it qualifies for such designation. Except for documents produced for inspection at the party's facilities, the designation of confidential information shall be made prior to, or contemporaneously with, the production or disclosure of that information. In the event that documents are produced for inspection at the party's facilities, such documents may be produced for inspection before being marked confidential. Once specific documents have been designated for copying, any documents containing confidential information will then be marked confidential after copying but before delivery to the party who inspected and designated the documents. There will be no waiver of confidentiality by the inspection of confidential documents before they are copied and marked confidential pursuant to this procedure.

b. Portions of depositions of a party's present and former officers, directors, employees, agents, experts, and representatives shall be deemed confidential only if they are designated as such when the deposition is taken or within seven business days after receipt of the transcript. Any testimony which describes a document which has been designated as "CONFIDENTIAL," as described above, shall also be deemed to be designated as "CONFIDENTIAL."

c. Information or documents designated as confidential under this Order shall not be used or disclosed by the parties or counsel for the parties or any persons

identified in subparagraph (d) below for any purposes whatsoever other than preparing for and conducting the litigation in which the information or documents were disclosed (including appeals).

d. The parties and counsel for the parties shall not disclose or permit the disclosure of any documents or information designated as confidential under this Order to any other person or entity, except that disclosures may be made in the following circumstances:

(i) Disclosure may be made to counsel and employees of counsel for the parties who have direct functional responsibility for the preparation and trial of the lawsuit. Any such employee to whom counsel for the parties makes a disclosure shall be provided with a copy of, and become subject to, the provisions of this Order requiring that the documents and information be held in confidence.

(ii) Disclosure may be made only to employees of a party required in good faith to provide assistance in the conduct of the litigation in which the information was disclosed.

(iii) Disclosure may be made to court reporters engaged for depositions and those persons, if any, specifically engaged for the limited purpose of making photocopies of documents. Prior to disclosure to any such court reporter or person engaged in making photocopies of documents, such person must agree to be bound by the terms of this Order.

(iv) Disclosure may be made to consultants, investigators, or experts (hereinafter referred to collectively as “experts”) employed by the parties or counsel for the parties to assist in the preparation and trial of the lawsuit. Prior to

disclosure to any expert, the expert must be informed of and agree in writing to be subject to the provisions of this Order requiring that the documents and information be held in confidence.

e. Except as provided in subparagraph (d) above, counsel for the parties shall keep all documents designated as confidential which are received under this Order secure within their exclusive possession and shall take reasonable efforts to place such documents in a secure area.

f. All copies, duplicates, extracts, summaries, or descriptions (hereinafter referred to collectively as “copies”) of documents or information designated as confidential under this Order or any portion thereof, shall be immediately affixed with the word “CONFIDENTIAL” if that word does not already appear.

2. Confidential Information Filed with Court. To the extent that any materials subject to this Confidentiality Order (or any pleading, motion or memorandum disclosing them) are proposed to be filed or are filed with the Court, those materials and papers, or any portion thereof which discloses confidential information, shall be filed under seal (by the filing party) with the Clerk of the Court with a simultaneous motion (hereinafter the “Interim Sealing Motion”). Even if the filing party believes that the materials subject to the Confidentiality Order are not properly classified as confidential, the filing party shall file the Interim Sealing Motion; provided, however, that the filing of the Interim Sealing Motion shall be wholly without prejudice to the filing party’s rights under paragraph (4) of this Confidentiality Order.

3. Party Seeking Greater Protection Must Obtain Further Order. No information may be withheld from discovery on the ground that the material to be disclosed requires protection greater than that afforded by paragraph (1) of this Order unless the party claiming a need for

greater protection moves for an order providing such special protection pursuant to Fed. R. Civ. P. 26(c).

4.      **Challenging Designation of Confidentiality.** A designation of confidentiality may be challenged upon motion. The burden of proving the confidentiality of designated information remains with the party asserting such confidentiality. The provisions of Fed. R. Civ. P. 37(a)(5) apply to such motions.

5.      **Return of Confidential Material at Conclusion of Litigation.** At the conclusion of the litigation, all material treated as confidential under this Order and not received in evidence shall be returned to the originating party or destroyed. The Clerk of the Court may return to counsel for the parties, or destroy, any sealed material at the end of the litigation, including any appeals. Ultimate disposition of protected materials shall be determined by the Court subject to a final court order upon completion of the litigation.

Date: November 10, 2015

Respectfully submitted,

*/s/ Kenneth D. Snow*

Kenneth D. Snow (NC Bar No. 27619)  
The Snow Legal Group, PLLC  
PLLC  
229 S. Brevard St., Suite 300  
Charlotte, NC 28202  
Tel. (704) 358-0026  
Fax (704) 358-0029  
Email: kennsnow@snowlegal.com

*/s/ G. Bryan Adams, III*

G. Bryan Adams III (NC Bar No. 17207)  
Van Hoy, Reutlinger, Adams & Dunn,  
737 East Blvd.  
Charlotte, NC 28203  
Tel. (704) 375-6022  
Fax (704) 375-6024  
Email: bryan.adams@vradlaw.com

*/s/ Donald Gist*

Donald Gist (*pro hac vice*)  
Kiera Dillon (*pro hac vice*)  
Gist Law Firm, P.A.  
4400 North Main Street  
Columbia, SC 29230  
Tel. (803) 771-8007  
Fax (803) 771-0063  
Email: kieradillon.gistlawfirm@gmail.com

*/s/ Daniel E. Farrington*

Daniel E. Farrington (*pro hac vice*)  
The Farrington Law Firm, LLC  
4550 Montgomery Avenue  
Suite 775 North  
Bethesda, MD 20814  
Tel. (301) 951-1538  
Fax (301) 951-1544  
Email: dfarrington@farringtonlaw.com

*Counsel for Plaintiff*

*Counsel for Defendant*

**IT IS SO ORDERED.**

Signed: November 12, 2015

  
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David C. Keesler  
United States Magistrate Judge

